

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY *Jeff* D.C.  
05 DEC -6 AM 9:44

REBECCA H. TREACE,

Plaintiff,

v.

UNUM LIFE INSURANCE COMPANY  
OF AMERICA,

Defendant.

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No. 03-2409 M1/P

THOMAS M. GOULD  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE

ORDER FOLLOWING PRETRIAL CONFERENCE

The Court held a Pretrial Conference in this cause on December 5, 2005. Appearing for Plaintiff were James King, Jr., Bradley Eskins, and Charles Sevier. Appearing for Defendant were Russell Headrick, Leigh Chiles, and Kristine Roberts.

At the conference, the Court ruled on the following motions:

- Defendant's Motion in Limine to Exclude the "Golden Rule" Appeal to the Jury, filed November 10, 2005, to which Plaintiff responded in opposition on November 21, 2005, is GRANTED;
- Defendant's Motion in Limine Pursuant to Daubert v. Merrell Dow Pharmaceuticals, Inc. to Exclude Testimony of Dr. John Black, filed November 10, 2005, to which Plaintiff responded in opposition on November 21, 2005, is DENIED;

- Plaintiff's Motion to allow Plaintiff to put the Social Security psychological examiner's report into evidence, filed November 21, 2005, is DENIED;
- Defendant's Motion in Limine to Exclude Evidence of Independent Medical Examination, filed November 28, 2005, is GRANTED;
- Defendant's Motion to Bifurcate Punitive Damages, filed November 28, 2005, is GRANTED;
- Defendant's Motion to Bifurcate Plaintiff's Breach of Contract and Tort Claims, filed November 28, 2005, is DENIED; and
- Defendant's Motion in Limine to Exclude Improper References to Unum's Counsel or the Costs of Unum's Defense, filed November 10, 2005, to which Plaintiff responded in opposition on November 21, 2005, is GRANTED as to the liability phase of trial. The Court did not rule on whether this will be admissible in the punitive damages phase of trial.

In addition, the Court ruled on some of Defendant's Omnibus Motion in Limine. The Court GRANTED Defendant's motion to exclude the Deposition testimony of Denise Payne Cole<sup>1</sup> and

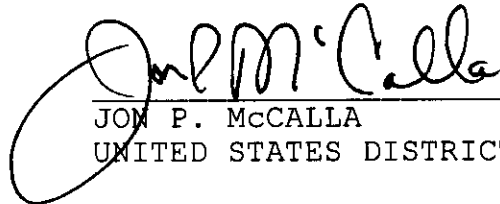
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<sup>1</sup> As Plaintiff's counsel correctly observed in the Memorandum in Opposition to Defendant's Omnibus Motion in Limine, Plaintiff may cross-examine Ms. Cole with portions of her deposition transcript. It does not appear that Plaintiff intends  
(Continued . . .)

GRANTED Defendant's motion to exclude Plaintiff's use of the deposition testimony of Plaintiff in its case-in-chief. The Court also GRANTED Defendant's motion to exclude Plaintiff's use of the affidavit of Bob Brasfield. The Court will rule on the admissibility of legal memoranda and correspondence between attorneys in this cause on an item by item basis as these issues arise at trial.

The Court will consider the damages standard governing TCPA claims, in relation to Defendant's Motion in Limine to Exclude Testimony by Peter Williams, Ph.D.

So ORDERED this S day of December, 2005.

  
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JON P. MCCALLA  
UNITED STATES DISTRICT JUDGE

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(Continued . . .)  
to introduce any of the Cole deposition in its case-in-chief.  
(Pl.'s Pretrial Order, received December 5, 2005 at 33.)



## Notice of Distribution

This notice confirms a copy of the document docketed as number 381 in case 2:03-CV-02409 was distributed by fax, mail, or direct printing on December 6, 2005 to the parties listed.

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Honorable Jon McCalla  
US DISTRICT COURT